

AMENDED IN SENATE AUGUST 19, 1996

AMENDED IN SENATE JUNE 24, 1996

AMENDED IN SENATE JUNE 4, 1996

AMENDED IN ASSEMBLY APRIL 18, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 2154

Introduced by Assembly Member Kuehl

February 6, 1996

An act to amend Sections 213.5, 304, 362.4, 366.25, 366.3, and 11404.1 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2154, as amended, Kuehl. Juveniles: dependent children: protective orders.

(1) Existing law specifies the circumstances of abuse and neglect under which the juvenile court may adjudge a minor to be a dependent child of the court. Under existing law, the juvenile court is required to hear all issues relating to the custody of a minor who is a dependent child of the court and no other division of any superior court may hear these proceedings. Existing law authorizes the juvenile court to issue certain restraining orders to any parent, guardian, or member of the minor child's household, and may issue certain protective orders directed to either of the parents of the minor.

This bill would revise and recast these provisions to, among other things, provide additionally that the juvenile court is the only division of the superior court that may hear proceedings under specified provisions regarding the establishment of the guardianship of a child subject to dependency proceedings, as specified, and authorize the juvenile court to instead direct protective orders to any parent, guardian, or current or former member of the minor child's household.

(2) Under existing law, the juvenile court is required to conduct a hearing to make a determination regarding the future status of the child within a specified period of time under certain circumstances, and periodically but no less frequently than once each 18 months thereafter during the continuation of foster care.

This bill would require this hearing to be conducted periodically but no less frequently than once each 12 months.

(3) Under existing law, if a dependent child is in a placement other than the home of a legal guardian and jurisdiction of the juvenile court has not been dismissed, the status of the child is required to be reviewed every 6 months to determine the progress being made to provide a permanent home for the child. Under existing law, at least every 18 months during this review, the court is required to order that a hearing be held in which adoption may be identified as the permanent placement goal, a legal guardian may be appointed, or other orders may be made, except as provided.

This bill would revise the latter provision to require the court to order this hearing to be held at least every 12 months, *and would make related changes.*

(4) Under existing law, in order to be eligible for aid under the Aid to Families with Dependent Children-Foster Care program, the child is required to receive a periodic review no less frequently than once every 6 months and a permanency planning hearing within 18 months of the original placement date and periodically but no less frequently than once each 18 months thereafter throughout the period of foster care placement.



This bill would require the permanency planning hearing to take place periodically but no less frequently than once each 12 months.

(5) By requiring increased duties of local officials, as described in (2), (3), and (4), the bill would impose a state-mandated local program.

(6) *This bill would incorporate additional changes in Section 213.5 of the Welfare and Institutions Code proposed by AB 2647, to be operative only if AB 2647 and this bill are both chaptered and become effective on or before January 1, 1997, and this bill is chaptered last.*

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 213.5 of the Welfare and
2 Institutions Code is amended to read:
3 213.5. (a) After a petition has been filed pursuant to
4 Section 311 to declare a child a dependent child of the
5 juvenile court, and until the time that the petition is
6 dismissed or dependency is terminated, upon application
7 in the manner provided by Section 527 of the Code of
8 Civil Procedure, the juvenile court may issue ex parte
9 orders (1) enjoining any parent, guardian, or current or
10 former member of the child's household from molesting,
11 attacking, striking, sexually assaulting, or battering the
12 child or any other child in the household; (2) excluding

1 any parent, guardian, or current or former member of the
2 child's household from the dwelling of the person who has
3 care, custody, and control of the child upon the same
4 showing as is necessary under the provisions of this
5 chapter relating to dependent children to remove a child
6 from the custody and control of his or her parents or
7 guardians; and (3) enjoining a parent, guardian, or
8 current or former member of the child's household from
9 specified behavior including contacting, threatening, or
10 disturbing the peace of the child, which the court
11 determines is necessary to effectuate orders under
12 paragraph (1) or (2). In the case in which a temporary
13 restraining order is granted without notice, the matter
14 shall be made returnable on an order requiring cause to
15 be shown why the order should not be granted, on the
16 earliest day that the business of the court will permit, but
17 not later than 15 days or, if good cause appears to the
18 court, 20 days from the date the temporary restraining
19 order is granted. The court may, on the motion of the
20 person seeking the restraining order, or on its own
21 motion, shorten the time for service on the person to be
22 restrained of the order to show cause. Any hearing
23 pursuant to this statute may be held simultaneously with
24 the regularly scheduled hearings held in proceedings to
25 declare a child a dependent child of the juvenile court
26 pursuant to Section 300.

27 (b) The juvenile court may issue, upon notice and a
28 hearing, any of the orders set forth in subdivision (a). Any
29 restraining order granted pursuant to this subdivision
30 shall remain in effect, in the discretion of the court, not
31 to exceed one year, unless otherwise terminated by the
32 court, extended by mutual consent of all parties to the
33 restraining order, or extended by further order of the
34 court on the motion of any party to the restraining order.

35 (c) The juvenile court may issue an order made
36 pursuant to subdivision (a) or (b) excluding a person
37 from a residence or dwelling only when the evidence
38 affirmatively shows facts sufficient for the court to
39 ascertain that the person seeking the order has a right
40 under color of law to possession of the premises.



1 In the case of the issuance of an ex parte order, the
2 affidavit in support of the application for the order shall
3 affirmatively show facts sufficient for the court to
4 ascertain that the person seeking the order has a right
5 under color of law to possession of the premises.

6 (d) Any order issued pursuant to subdivision (a) or (b)
7 shall state on its face the date of expiration of the order.

8 (e) The juvenile court shall order any designated
9 person or attorney to mail a copy of any order, or
10 extension, modification, or termination thereof, granted
11 pursuant to subdivision (a) or (b), by the close of the
12 business day on which the order, extension, modification,
13 or termination was granted, and any subsequent proof of
14 service thereof, to each local law enforcement agency
15 designated by the person seeking the restraining order or
16 his or her attorney having jurisdiction over the residence
17 of the person who has care, custody, and control of the
18 child and other locations where the court determines that
19 acts of domestic violence or abuse against the child or
20 children are likely to occur. Each appropriate law
21 enforcement agency shall make available through an
22 existing system for verification, information as to the
23 existence, terms, and current status of any order issued
24 pursuant to subdivision (a) or (b) to any law enforcement
25 officer responding to the scene of reported domestic
26 violence or abuse.

27 (f) Any willful and knowing violation of any order
28 granted pursuant to subdivision (a) or (b) shall be a
29 misdemeanor punishable under Section 273.6 of the
30 Penal Code.

31 *SEC. 1.5. Section 213.5 of the Welfare and Institutions*
32 *Code is amended to read:*

33 *213.5. (a) ~~During the pendency of any proceeding~~*
34 *After a petition has been filed pursuant to Section 311 to*
35 *declare a ~~minor~~ child a dependent child of the juvenile*
36 *court, and until the time that the petition is dismissed or*
37 *dependency is terminated, upon application in the*
38 *manner provided by Section 527 of the Code of Civil*
39 *Procedure, the juvenile court may issue ex parte orders*
40 *(1) enjoining any parent, guardian, or current or former*

1 member of the ~~minor~~ child's household from molesting,
2 attacking, striking, sexually assaulting, or battering the
3 ~~minor~~ child or any other ~~minor~~ child in the household; (2)
4 excluding any parent, guardian, or *current or former*
5 member of the ~~minor~~ child's household from the dwelling
6 of the person who has care, custody, and control of the
7 child ~~upon the same showing as is necessary under the~~
8 ~~provisions of this chapter relating to dependent children~~
9 ~~to remove a minor from the custody and control of his or~~
10 ~~her parents or guardians;~~ and (3) enjoining a parent,
11 guardian, or *current or former* member of the ~~minor~~
12 child's household from specified behavior including
13 contacting, threatening, or disturbing the peace of the
14 ~~minor child~~, which the court determines is necessary to
15 effectuate orders under paragraph (1) or (2). In the case
16 in which a temporary restraining order is granted without
17 notice, the matter shall be made returnable on an order
18 requiring cause to be shown why the order should not be
19 granted, on the earliest day that the business of the court
20 will permit, but not later than 15 days or, if good cause
21 appears to the court, 20 days from the date the temporary
22 restraining order is granted. The court may, on the
23 motion of the person seeking the restraining order, or on
24 its own motion, shorten the time for service on the person
25 to be restrained of the order to show cause. Any hearing
26 pursuant to this statute may be held simultaneously with
27 the regularly scheduled hearings held in proceedings to
28 declare a ~~minor child~~ a dependent child of the juvenile
29 court pursuant to Section 300.

30 (b) The juvenile court may issue, upon notice and a
31 hearing, any of the orders set forth in subdivision (a). Any
32 restraining order granted pursuant to this subdivision
33 shall remain in effect, in the discretion of the court, not
34 to exceed one year, unless otherwise terminated by the
35 court, extended by mutual consent of all parties to the
36 restraining order, or extended by further order of the
37 court on the motion of any party to the restraining order.

38 (c) (1) The juvenile court may issue an order made
39 pursuant to subdivision (a) or (b) excluding a person
40 from a residence or dwelling ~~only when the evidence~~

~~affirmatively shows facts sufficient for the court to ascertain that the person seeking the order has a right under color of law to possession of the premises.~~

~~In the case of the issuance of an ex parte order, the affidavit in support of the application for the order shall affirmatively show facts sufficient for the court to ascertain that the person seeking the order has a right under color of law to possession of the premises. This order may be issued for the time and on the conditions that the court determines, regardless of which party holds legal or equitable title or is the lessee of the residence or dwelling.~~

(2) The court may issue an order under paragraph (1) only on a showing of all of the following:

(A) Facts sufficient for the court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises.

(B) That the party to be excluded has assaulted or threatens to assault the other party or any other person under the care, custody, and control of the other party, or any minor child of the parties or of the other party.

(C) That physical or emotional harm would otherwise result to the other party, to any person under the care, custody, and control of the other party, or to any minor child of the parties or of the other party.

(d) Any order issued pursuant to subdivision (a) or (b) shall state on its face the date of expiration of the order.

(e) The juvenile court shall order any designated person or attorney to mail a copy of any order, or extension, modification, or termination thereof, granted pursuant to subdivision (a) or (b), by the close of the business day on which the order, extension, modification, or termination was granted, and any subsequent proof of service thereof, to each local law enforcement agency designated by the person seeking the restraining order or his or her attorney having jurisdiction over the residence of the person who has care, custody, and control of the ~~minor~~ child and ~~such~~ other locations where the court determines that acts of domestic violence or abuse against the ~~minor~~ child or children are likely to occur. Each

1 appropriate law enforcement agency shall make
2 available through an existing system for verification,
3 information as to the existence, terms, and current status
4 of any order issued pursuant to subdivision (a) or (b) to
5 any law enforcement officer responding to the scene of
6 reported domestic violence or abuse.

7 (f) Any willful and knowing violation of any order
8 granted pursuant to subdivision (a) or (b) shall be a
9 misdemeanor punishable under Section—~~273.6~~ 273.65 of
10 the Penal Code.

11 SEC. 2. Section 304 of the Welfare and Institutions
12 Code is amended to read:

13 304. After a petition has been filed pursuant to Section
14 311, and until the time that the petition is dismissed or
15 dependency is terminated, no other division of any
16 superior court may hear proceedings under Part 2
17 (commencing with Section 3020) of Division 8 of the
18 Family Code regarding the custody of the child or
19 proceedings under Part 2 (commencing with Section
20 1500) of Division 4 of the Probate Code regarding the
21 establishment of a guardianship for the child, except as
22 may otherwise be authorized in this code. During the
23 referenced period of juvenile court jurisdiction, all issues
24 regarding custody of the child shall be heard by the
25 juvenile court. In deciding issues between the parents or
26 between a parent and a guardian regarding custody of a
27 child who is under the jurisdiction of the juvenile court,
28 as described above, the juvenile court may review any
29 records that would be available to the family law
30 department of a superior court hearing such a matter.
31 The juvenile court, on its own motion, may issue an order
32 as provided in Section 213.5 or as described in Section
33 6218 of the Family Code. The Judicial Council shall adopt
34 forms for these restraining orders. These form orders shall
35 not be confidential and shall be enforceable in the same
36 manner as any other order issued pursuant to Division 10
37 (commencing with Section 6200) of the Family Code.

38 This section shall not be construed to divest the family
39 law department of a superior court from hearing any
40 issues regarding the custody of a child when that child is



1 no longer under the jurisdiction of the juvenile court, as
2 described above.

3 SEC. 3. Section 362.4 of the Welfare and Institutions
4 Code is amended to read:

5 362.4. When the juvenile court terminates its
6 jurisdiction over a child concerning whom a petition has
7 been filed pursuant to Section 311 and who has not
8 reached the age of 18 years, and proceedings for
9 dissolution of marriage, for nullity of marriage, or for legal
10 separation, of the child's parents, or proceedings to
11 establish the paternity of the child brought under the
12 Uniform Parentage Act, Part 3 (commencing with
13 Section 7600) of Division 12 of the Family Code, are
14 pending in the superior court of any county, or an order
15 has been entered with regard to the custody of that child,
16 the juvenile court on its own motion, may issue a
17 protective order, as provided in Section 213.5 of this code
18 or as defined in Section 6218 of the Family Code, and an
19 order determining the custody of, or visitation with, the
20 child.

21 Any order issued pursuant to this section shall continue
22 until modified or terminated by a subsequent order of the
23 superior court. The order of the juvenile court shall be
24 filed in the proceeding for nullity, dissolution, or legal
25 separation, or in the proceeding to establish paternity, at
26 the time the juvenile court terminates its jurisdiction over
27 the child, and shall become a part thereof.

28 If no action is filed or pending relating to the custody
29 of the child in the superior court of any county, the
30 juvenile court order may be used as the sole basis for
31 opening a file in the superior court of the county in which
32 the parent, who has been given custody, resides. The
33 court may direct the parent or the clerk of the juvenile
34 court to transmit the order to the clerk of the superior
35 court of the county in which the order is to be filed. The
36 clerk of the superior court shall, immediately upon
37 receipt, open a file, without a filing fee, and assign a case
38 number.

39 The clerk of the superior court shall, upon the filing of
40 any juvenile court custody order, send by first-class mail

1 a copy of the order with the case number to the juvenile
2 court and to the parents at the address listed on the order.

3 The Judicial Council shall adopt forms for any custody
4 or restraining order issued under this section. These form
5 orders shall not be confidential.

6 SEC. 4. Section 366.25 of the Welfare and Institutions
7 Code is amended to read:

8 366.25. (a) In order to provide stable, permanent
9 homes for children, a court shall, if the minor cannot be
10 returned home pursuant to subdivision (e) of Section
11 366.2, conduct a hearing to make a determination
12 regarding the future status of the minor no later than 12
13 months after the original dispositional hearing in which
14 the child was removed from the custody of his or her
15 parent, parents, or guardians, and in no case later than 18
16 months from the time of the minor's original placement
17 pursuant to Section 319 or 16507.4 and periodically, but no
18 less frequently than once each 12 months thereafter
19 during the continuation of foster care. The hearing may
20 be combined with the six months' review as provided for
21 in Section 366. In the case of a minor who comes within
22 subdivision (b) of Section 361.5 and for whom the court
23 has found that reunification services should not be
24 provided, a hearing shall be held pursuant to Section
25 361.5.

26 (b) Notice of the proceeding to conduct the review
27 shall be mailed by the probation officer to the same
28 persons as in an original proceeding, to the minor's
29 present custodian, and to the counsel of record, by
30 certified mail addressed to the last known address of the
31 person to be notified, or shall be personally served on
32 those persons not earlier than 30 days, nor later than 15
33 days prior to the date the review is to be conducted.

34 (c) Except in cases where permanency planning is
35 conducted pursuant to Section 361.5, the court shall first
36 determine at the hearing whether the minor should be
37 returned to his or her parent or guardian, pursuant to
38 subdivision (e) of Section 366.2. If the minor is not
39 returned to the custody of his or her parent or guardian
40 the court shall determine whether there is a substantial



1 probability that the minor will be returned to the physical
2 custody of his or her parent or guardian within six months.
3 If the court so determines it shall set another review
4 hearing for not more than six months, which shall be a
5 hearing pursuant to this section.

6 (d) If the court determines that the minor cannot be
7 returned to the physical custody of his or her parent or
8 guardian and that there is not a substantial probability
9 that the minor will be returned within six months, the
10 court shall develop a permanent plan for the minor. In
11 order to enable the minor to obtain a permanent home
12 the court shall make the following determinations and
13 orders:

14 (1) If the court finds that it is likely that the minor can
15 or will be adopted, the court shall authorize the
16 appropriate county or state agency to proceed to free the
17 minor from the custody and control of his or her parents
18 or guardians pursuant to Part 4 (commencing with
19 Section 7800) of Division 12 of the Family Code unless the
20 court finds that any of the following conditions exist:

21 (A) The parents or guardians have maintained regular
22 visitation and contact with the minor and the minor
23 would benefit from continuing this relationship.

24 (B) A minor 12 years of age or older objects to
25 termination of parental rights.

26 (C) The minor's foster parents, including relative
27 caretakers, are unable to adopt the minor because of
28 exceptional circumstances which do not include an
29 unwillingness to accept legal responsibility for the minor,
30 but are willing and capable of providing the minor with
31 a stable and permanent environment and the removal of
32 the minor from the physical custody of his or her foster
33 parents would be seriously detrimental to the emotional
34 well-being of the minor.

35 (2) If the court finds that it is not likely that the minor
36 can or will be adopted or that one of the conditions in
37 subparagraph (A), (B), or (C) of paragraph (1) applies,
38 the court shall order the appropriate county department
39 to initiate or facilitate the placement of the minor in a
40 home environment that can be reasonably expected to be

1 stable and permanent. This may be accomplished by
2 initiating legal guardianship proceedings or long-term
3 foster care. Legal guardianship shall be considered before
4 long-term foster care, if it is in the best interests of the
5 child and if a suitable guardian can be found. When the
6 minor is in a foster home and the foster parents, including
7 relative caretakers, are willing and capable of providing
8 a stable and permanent environment, the minor shall not
9 be removed from the home if the removal would be
10 seriously detrimental to the emotional well-being of the
11 minor because the minor has substantial psychological
12 ties to the foster parents. The court shall also make orders
13 for visitation with the parents or guardians unless the
14 court finds by a preponderance of evidence that the
15 visitation would be detrimental to the physical or
16 emotional well-being of the minor.

17 (3) (A) If the court finds that it is not likely that the
18 minor can or will be adopted, that there is no suitable
19 adult available to become the legal guardian of the minor,
20 and that there are no suitable foster parents except
21 certified homes available to provide the minor with a
22 stable and permanent environment, the court may order
23 the care, custody, and control of the minor transferred
24 from the county welfare department or probation
25 department to a licensed foster family agency. The court
26 shall consider the written recommendation of the county
27 welfare director or chief probation officer regarding the
28 suitability of such a transfer. The transfer shall be subject
29 to further court orders.

30 (B) The licensed foster family agency shall only use a
31 suitable licensed or other family home which has been
32 certified by the agency as meeting licensing standards.
33 When the care, custody, and control has been transferred
34 to a foster family agency, it shall be responsible for
35 supporting the minor and for providing appropriate
36 services to the minor, including those services ordered by
37 the court. Responsibility for support of the minor shall not
38 in and of itself create liability on the part of the foster
39 family agency to third persons injured by the minor.
40 Those minors whose care, custody, and control are

1 transferred to a foster family agency shall not be eligible
2 for foster care maintenance payments or child welfare
3 services, except for emergency response services
4 pursuant to Section 16504.

5 (C) Subsequent reviews for these minors shall be
6 conducted every six months by the court. The licensed
7 foster family agency shall be required to submit reports
8 for each minor in its care, custody, and control to the
9 court concerning the continuing appropriateness and
10 extent of compliance with the minor's permanent plan,
11 the extent of compliance with the case plan, and the type
12 and adequacy of services provided to the minor.

13 (e) The proceeding for the appointment of a guardian
14 for a minor who is a dependent child of the juvenile court
15 shall be in the juvenile court. The court shall receive into
16 evidence a report and recommendation concerning the
17 proposed guardianship. The report shall include, but not
18 be limited to, a discussion of all of the following:

19 (1) A social history of the proposed guardian,
20 including screening for criminal records and prior
21 referrals for child abuse or neglect.

22 (2) A social history of the minor, including an
23 assessment of any identified developmental, emotional,
24 psychological, or educational needs, and the capability of
25 the proposed guardian to meet those needs.

26 (3) The relationship of the minor to the proposed
27 guardian, the duration and character of the relationship,
28 the motivation for seeking guardianship rather than
29 adoption, the proposed guardian's long-term
30 commitment to provide a stable and permanent home for
31 the minor, and a statement from the minor concerning
32 the proposed guardianship.

33 (4) The plan, if any, for the natural parents for
34 continued involvement with the minor.

35 (5) The proposed guardian's understanding of the
36 legal and financial rights and responsibilities of
37 guardianship.

38 The report shall be read and considered by the court
39 prior to ruling on the petition for guardianship, and this
40 shall be reflected in the minutes of the court. The person

1 preparing the report may be called and examined by any
2 party to the proceeding.

3 (f) Physical custody of a minor by his or her parents or
4 guardians for insubstantial periods during the 12-month
5 period prior to a permanency planning hearing shall not
6 serve to interrupt the running of those periods.

7 (g) Notwithstanding any other provision of law, the
8 application of any person who, as a foster parent,
9 including relative caretakers, has cared for a dependent
10 child for whom the court has approved a permanent plan
11 for adoption, or who has been freed for adoption, shall be
12 given preference with respect to that child over all other
13 applications for adoptive placement if the agency making
14 the placement determines that the child has substantial
15 emotional ties to the foster parent and removal from the
16 foster parent would be seriously detrimental to the child's
17 well-being.

18 As used in this subdivision, "preference" means that
19 the application shall be processed and, if satisfactory, the
20 family study shall be completed before the processing of
21 the application of any other person for the adoptive
22 placement of the child.

23 (h) Subsequent hearings need not be held if (1) the
24 child has been freed for adoption and placed in the
25 adoptive home identified in the previous hearing and is
26 awaiting finalization of the adoption or (2) the child is the
27 ward of a guardian.

28 (i) This section applies to minors adjudged dependent
29 children of the juvenile court pursuant to subdivision (c)
30 of Section 360 prior to January 1, 1989.

31 (j) An order by the court that authorizes the filing of
32 a petition to terminate parental rights pursuant to Part 4
33 (commencing with Section 7800) of Division 12 of the
34 Family Code or that authorizes the initiation of
35 guardianship proceedings is not an appealable order but
36 may be the subject of review by extraordinary writ.

37 SEC. 5. Section 366.3 of the Welfare and Institutions
38 Code is amended to read:

39 366.3. (a) If a juvenile court orders a permanent plan
40 of adoption or legal guardianship pursuant to Section 360,

1 366.25, or 366.26, the court shall retain jurisdiction over
 2 the minor until the minor is adopted or the legal
 3 guardianship is established. The status of the minor shall
 4 be reviewed every six months to ensure that the adoption
 5 or guardianship is completed as expeditiously as possible.
 6 When the adoption of the minor has been granted, the
 7 court shall terminate its jurisdiction over the minor. The
 8 court may continue jurisdiction over the minor as a
 9 dependent minor of the juvenile court following the
 10 establishment of a legal guardianship or may terminate its
 11 dependency jurisdiction and retain jurisdiction over the
 12 minor as a ward of the guardianship established pursuant
 13 to Section 360, 366.25, or 366.26 and as authorized by
 14 Section 366.4. Following a termination of parental rights
 15 the parent or parents shall not be a party to, or receive
 16 notice of, any subsequent proceedings regarding the
 17 minor.

18 (b) If the court has dismissed dependency jurisdiction
 19 following the establishment of a legal guardianship, or no
 20 dependency jurisdiction attached because of the granting
 21 of a legal guardianship pursuant to Section 360, and the
 22 legal guardianship is subsequently revoked or otherwise
 23 terminated, the county department of social services or
 24 welfare department shall notify the juvenile court of this
 25 fact. The court may vacate its previous order dismissing
 26 dependency jurisdiction over the minor.

27 Notwithstanding Section 1601 of the Probate Code, the
 28 proceedings to terminate a guardianship which has been
 29 granted pursuant to Section 360, 366.25, or 366.26 shall be
 30 held in the juvenile court, unless the termination is due
 31 to the emancipation or adoption of the minor. If the
 32 petition to terminate guardianship is granted, the
 33 juvenile court may resume dependency jurisdiction over
 34 the minor, and may order the county department of social
 35 services or welfare department to develop a new
 36 permanent plan, which shall be presented to the court
 37 within 60 days of the termination. If no dependency
 38 jurisdiction has attached, the probation officer shall make
 39 any investigation he or she deems necessary to determine

1 whether the minor may be within the jurisdiction of the
2 juvenile court, as provided in Section 328.

3 Unless the parental rights of the child's parent or
4 parents have been terminated, they shall be notified that
5 the guardianship has been revoked or terminated and
6 shall be entitled to participate in the new permanency
7 planning hearing. The court shall try to place the minor
8 in another permanent placement. At the hearing, the
9 parents may be considered as custodians but the minor
10 shall not be returned to the parent or parents unless they
11 prove, by a preponderance of the evidence, that
12 reunification is the best alternative for the minor. The
13 court may, if it is in the interests of the minor, order that
14 reunification services again be provided to the parent or
15 parents.

16 (c) If, following the establishment of a legal
17 guardianship, the county welfare department or
18 probation department becomes aware of changed
19 circumstances that indicate adoption may be an
20 appropriate plan for the child, the department shall so
21 notify the court. The court may vacate its previous order
22 dismissing dependency jurisdiction over the minor and
23 order that a hearing be held pursuant to Section 366.26 to
24 determine whether adoption or continued guardianship
25 is the most appropriate plan for the minor. The hearing
26 shall be held no later than 120 days from the date of the
27 order. Whenever the court orders that a hearing shall be
28 held pursuant to Section 366.26, the court shall direct the
29 agency supervising the child and the licensed county
30 adoption agency, or the State Department of Social
31 Services when it is acting as an adoption agency in
32 counties that are not served by a county adoption agency,
33 to prepare an assessment under subdivision (b) of Section
34 366.22.

35 (d) If the minor is in a placement other than the home
36 of a legal guardian and jurisdiction has not been
37 dismissed, the status of the minor shall be reviewed every
38 six months. This review may be conducted by the court
39 or an appropriate local agency. The court shall conduct
40 the review under the following circumstances:



1 (1) Upon the request of the minor's parents or
2 guardians.

3 (2) Upon the request of the minor.

4 (3) It has been ~~48~~ 12 months since a hearing held
5 pursuant to Section 366.26 or an order that the minor
6 remain in long-term foster care pursuant to paragraph
7 (2) of subdivision (g) of Section 366.21, subdivision (a) of
8 Section 366.26, or subdivision (f).

9 (4) It has been ~~48~~ 12 months since a review was
10 conducted by the court.

11 (e) At the review held every six months pursuant to
12 subdivision (d), the reviewing body shall inquire about
13 the progress being made to provide a permanent home
14 for the minor and shall determine all of the following:

15 (1) The appropriateness of the placement.

16 (2) The continuing appropriateness and extent of
17 compliance with the permanent plan for the child.

18 (3) The extent of compliance with the child welfare
19 services case plan.

20 (4) The adequacy of services provided to the child.
21 The review shall also include a determination of the
22 services needed to assist a child who is 16 years of age or
23 older make the transition from foster care to independent
24 living.

25 Each licensed foster family agency shall submit reports
26 for each minor in its care, custody, and control to the
27 court concerning the continuing appropriateness and
28 extent of compliance with the minor's permanent plan,
29 the extent of compliance with the case plan, and the type
30 and adequacy of services provided to the minor.

31 Unless their parental rights have been permanently
32 terminated, the parent or parents of the minor are
33 entitled to receive notice of, and participate in, those
34 hearings. It shall be presumed that continued care is in
35 the interests of the minor, unless the parent or parents
36 prove, by a preponderance of the evidence, that further
37 efforts at reunification are the best alternative for the
38 minor. In those cases, the court may order that further
39 reunification services be provided to the parent or
40 parents for a period not to exceed six months.

1 (f) At least every 12 months, during a review under
2 subdivision (e), the court shall order that a hearing be
3 held pursuant to Section 366.26. However, if the court
4 finds by clear and convincing evidence, based on the
5 evidence already presented to it that the minor is not a
6 proper subject for adoption, and no one is willing to
7 accept legal guardianship, the court may, upon a
8 determination that a hearing pursuant to Section 366.26
9 is therefore unnecessary, order that the minor remain in
10 long-term foster care.

11 (g) If, as authorized by subdivision (f), the court
12 orders a hearing pursuant to Section 366.26, the court
13 shall direct the agency supervising the child and the
14 licensed county adoption agency, or the department
15 when it is acting as an adoption agency in counties that
16 are not served by a county adoption agency, to prepare
17 an assessment as provided for in subdivision (i) of Section
18 366.21 or subdivision (b) of Section 366.22. A hearing held
19 pursuant to Section 366.26 shall be held no later than 120
20 days from the date of the ~~18-month~~ 12-month review at
21 which it is ordered, and at that hearing the court shall
22 determine whether adoption, guardianship, or long-term
23 foster care is the most appropriate plan for the minor.

24 SEC. 6. Section 11404.1 of the Welfare and Institutions
25 Code is amended to read:

26 11404.1. In order to be eligible for AFDC-FC, the
27 child shall receive a periodic review no less frequently
28 than once every six months and a permanency planning
29 hearing within 18 months of the original placement date
30 and periodically but no less frequently than once each 12
31 months thereafter, as required throughout the period of
32 foster care placement. Periodic reviews and permanency
33 planning hearings shall not be required for a child who is
34 residing with a nonrelated legal guardian.

35 SEC. 7. *Section 1.5 of this bill incorporates*
36 *amendments to Section 213.5 of the Welfare and*
37 *Institutions Code proposed by both this bill and AB 2647.*
38 *It shall only become operative if (1) both bills are enacted*
39 *and become effective on or before January 1, 1997, (2)*
40 *each bill amends Section 213.5 of the Welfare and*

1 *Institutions Code, and (3) this bill is enacted after AB*
2 *2647, in which case Section 1 of this bill shall not become*
3 *operative.*

4 *SEC. 8.* Notwithstanding Section 17610 of the
5 Government Code, if the Commission on State Mandates
6 determines that this act contains costs mandated by the
7 state, reimbursement to local agencies and school
8 districts for those costs shall be made pursuant to Part 7
9 (commencing with Section 17500) of Division 4 of Title
10 2 of the Government Code. If the statewide cost of the
11 claim for reimbursement does not exceed one million
12 dollars (\$1,000,000), reimbursement shall be made from
13 the State Mandates Claims Fund.

14 Notwithstanding Section 17580 of the Government
15 Code, unless otherwise specified, the provisions of this act
16 shall become operative on the same date that the act
17 takes effect pursuant to the California Constitution.

